

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
HOT SPRINGS DIVISION

UNITED STATES OF AMERICA

PLAINTIFF

v.

Case No. 6:00cr60017-001

WILLIAM JONATHAN BROWN

DEFENDANT

ORDER

On September 4, 2001, the Court sentenced Defendant to 168 months imprisonment for armed bank robbery. (Doc. 114). Defendant's sentence included a \$100.00 special assessment, a \$1,000.00 fine and \$20,314.96 in joint and several restitution with his co-defendant. (Doc. 114). Currently before the Court is a motion by Defendant to suspend payment of his fine and restitution until he is released from prison (doc. 139). Also before the Court is the Government's Response (Docs. 140-41).

Title 18, section 3572 of the United States Code governs the imposition of a sentence of a fine. It states, in pertinent part:

Notwithstanding the fact that a sentence to pay a fine can subsequently be --

- (1) modified or remitted under section 3573;
- (2) corrected under rule 35 of the Federal Rules of Criminal Procedure and section 3742; or
- (3) appealed and modified under section 3742;

a judgment that includes such a sentence is a final judgment for all other purposes.

18 U.S.C. § 3572(c).

In order to be modified or remitted under section 3573, the Government must petition the Court. 18 U.S.C. § 3573. The Government has filed no such petition and, further, has filed a response objecting to any suspension of Defendant's fine. Rule 35 of the Federal Rules of Criminal Procedure provides that the Court may correct an error in a sentence with 7 days after sentencing or reduce a sentence upon the Government's motion. Neither situation exists in this case. Finally, for a sentence to be modified under section 3742, a notice of appeal must be timely filed in the district court. 18 U.S.C. § 3742. Defendant's sentence was affirmed on appeal (doc. 125).

None of the reasons for modifying a fine are present in this case, and Defendant has been making payments toward his fine and restitution. Accordingly, Defendant's motion is DENIED.

IT IS SO ORDERED this 26th day of January 2010.

/s/ Robert T. Dawson
Honorable Robert T. Dawson
United States District Judge